

REMARKS

The Examiner has issued an election/restriction requirement in the above-identified Office Action. Pursuant to the restriction/election requirement, Applicants hereby elect the invention as claimed in Group a., claims 1-3, 7-11, 56 and 57.

However, the claims have been amended to avoid the Election/Restriction Requirement. Support for the amendments is found in the Specification at page 2, lines 9 and 10, for example, where the statement is made that a “topcoat is a wear layer that has at least a portion that forms the exposed surface of the floor covering.” Further, Examples 6, 8, 11 and 12 disclose a radiation cured pigmented “topcoat” that is overall coated with a second topcoat, converting the first “topcoat” into a wear layer.

Applicants concede that the restriction requirement between original Groups a and c was proper. The species originally claimed were mutually exclusive. Group a required a pigmented topcoat, which was not required in Group c, and Group c required a pigmented wear layer and a topcoat, which was not required in Group a.

However, as rewritten, the claims of Group c depend, directly or indirectly, from claim 1 of Group a. Therefore, the claims of Group c have all the limitations of claim 1 and there is no mutual exclusivity, as required by MPEP Section 806.04(f).

In similar manner, the claims of Groups b and d now depend, directly or indirectly, from claim 1 of Group a. Since there is no mutual exclusivity, as required by MPEP Section 806.04(f), the restriction requirement must be withdrawn.

Claims 23 to 28, were not grouped by the Examiner. Applicants’ attempt to indicate which of these claims are readable upon which species, as required by the

MPEP, illustrates the improper restriction of Groups b and d. Claim 23 is clearly readable on the species of Group a, since it further limits the substrate of Group a to comprise a laminated film and does not require the printed pattern of Group b.

However, in which Group does claim 24 belong? Claim 24 further limits the substrate, requiring it to comprise a printed pattern. Therefore, the floor covering includes a printed pattern of the species of Group b, but that printed pattern is a component of the substrate. The substrate printed pattern cannot be both part of the substrate limitation and the printed pattern limitation of the species of Group b. Claim 24 properly reads on the species of Group a since it requires a substrate (which comprises a print layer) and a pigmented topcoat (now a pigmented wear layer).

By taking the Examiner's approach to its logical conclusion, every dependent claim is a different species. However, the species are not mutually exclusive.

Claim 25 further limits the floor covering of claim 24 to require the pigmented wear layer to be in register with the printed pattern. It is readable on the species of Group a for the same reasons as claim 24.

In similar manner, claims 26 to 28 are readable on the species of original Group c. However, as discussed above, the species of Group c is not mutually exclusive of the species of the amended claims of Group a. Therefore, claims 26 to 28 are readable on the species of Group a.

New claims 60 to 65 read on the species of old Group c, now the species of amended claim 1, Group a.

Applicants submit that the amended claims have removed the basis for the restriction requirement, that all of the claims should be examined and that all of the

claims are in a condition for allowance. Therefore, early consideration and allowance are respectfully requested.

Respectfully submitted,

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Date

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